MYSORE ACT No. XXVII OF 1951.

THE MYSORE LOTTERIES AND PRIZE COMPETITIONS CONTROL AND TAX ACT, 1951.

(Received the assent of the President on the 21st day of June 1951.)

An Act to control and to tax lotteries and prize competitions in the State of Mysore.

WHEREAS it is expedient to control and to levy a tax on lotteries and prize competitions in the State of Mysore ; Preamble.

It is hereby enacted as follows :—

1. (1) This Act may be called the Mysore Lotteries and Prize Competitions Control and Tax Act, 1951. Short title, extent and commencement.

(2) It extends to the whole of the State of Mysore.

(3) This section shall come into force at once ; and the remaining provisions of this Act shall come into force on such date as the State Government may, by notification in the *Mysore Gazette*, appoint in this behalf.

2. (1) In this Act, unless there is anything repugnant in the subject or context, Definitions.

(*a*) "coupon" includes, in relation to a prize competition, any document in which the solution to the competition is submitted by any person ;

(*b*) "licence" means a licence granted under this Act ;

(*c*) "money" includes a cheque or any other negotiable instrument, a postal order or money order ;

(*d*) "prescribed" means prescribed by rules made under this Act ;

(*e*) "prize competition" includes—

(i) cross-word prize competition, missing words prize competition, picture prize competition, number prize competition, or any other competition for which the solution is prepared beforehand by the promoters of the competition or for which the solution is determined by lot ;

(ii) any competition in which prizes are offered for forecasts of the results either of a future event or of a past event the result of which is not yet ascertained or not yet generally known; and

(iii) any other competition, success in which, does not depend to a substantial degree upon the exercise of skill;

(*f*) "quarter" means a period of three months from the 1st January to 31st March, from 1st April to 30th June, from 1st July to 30th September and from 1st October to 31st December in each year;

(*g*) "State" means the State of Mysore;

(*h*) "ticket" includes, in relation to any lottery or proposed lottery, any document evidencing the claim of a person to participate in the chances of the lottery.

(2) For the purposes of this Act—

(*a*) reference to printing shall be construed as including references to writing and other modes of representing or reproducing words in a visible form; and

(*b*) documents or other matters shall be deemed to be distributed if they are distributed to persons or in places whether within or outside the State and the expression 'distribution' shall be construed accordingly.

All lotteries unlawful.

3. Subject to the provisions of this Act, all lotteries are unlawful.

Offences in connection with lotteries.

4. (1) Subject to the provisions of this section, every person who in connection with any lottery promoted or proposed to be promoted, either in the State or elsewhere—

(*a*) publishes any proposal to pay any sum, or to deliver any goods, or to do or forbear from doing anything for the benefit of any person, on any event or contingency relative or applicable to the drawing of any ticket, lot, number, colour, or figure in the lottery; or

(*b*) prints any tickets for use in the lottery ; or

(*c*) sells or distributes, or offers or advertises for sale or distribution, or has in his possession for the purpose of sale or distribution, any tickets or chances in the lottery ; or

(*d*) prints, publishes or distributes, or has in his possession for the purpose of publication or distribution—

(i) any advertisement of the lottery ; or

(ii) any list (whether complete or not) of prize winners or winning tickets in the lottery ; or

(iii) any such matter descriptive of the drawing or intended drawing of the lottery, or otherwise relating to the lottery, as is calculated to act as an inducement to persons to participate in that lottery or in other lotteries ; or

(*e*) brings, or invites any person to send into the State, for the purpose of sale or distribution any ticket in, or advertisement of, the lottery ; or

(*f*) sends or attempts to send out of the State,

(i) any money or valuable thing received in respect of the sale or distribution of any ticket or chance in the lottery ; or

(ii) any document recording the sale or distribution of any ticket or chance in the lottery ; or

(iii) any document recording the identity of the holder of any ticket or chance in the lottery ; or

(*g*) uses any premises, or permits any premises to be used, for purposes connected with the promotion or conduct of the lottery ; or

(*h*) causes or attempts to cause any person to do any of the abovementioned acts,

hall, on conviction, be punishable—

(i) for the first offence with fine which may extend to one thousand rupees ;

(ii) for the second offence with fine which may extend to two thousand rupees ; and

(iii) for any subsequent offence with imprisonment for a term which may extend to three months or with fine which may extend to five thousand rupees or with both.

(2) In any proceedings instituted under sub-section (1), an accused person shall not be deemed to be guilty if he proves that the lottery to which the proceedings relate was such a lottery as is not deemed to be an unlawful lottery or prize competition under section 5, 6, 7 or 8, as the case may be, and that at the date of the alleged offence the accused believed and had reasonable grounds for believing that there was no contravention of any of the conditions required by section 5 or section 6 or section 7 to be observed in connection with the promotion and conduct of the lottery.

Licensed entertainment lotteries not unlawful.

5. (1) A lottery promoted as an incident of an entertainment shall not be deemed to be an unlawful lottery, if the promoter thereof has obtained a licence in respect of such lottery.

(2) The following conditions shall be observed by the promoter in connection with the promotion and conduct of such lottery, namely :—

(*a*) the whole proceeds of the entertainment (including the proceeds of the lottery) after deducting—

(i) the expenses of the entertainment, excluding expenses incurred in connection with the lottery ;

(ii) the expenses incurred in printing tickets in the lottery ; and

(iii) such sum (if any) not exceeding five hundred rupees, as may be specified in the licence as expenses which may be incurred by the promoters in purchasing prizes in the lottery

shall be devoted to purposes other than private gain ;

(*b*) none of the prizes in the lottery shall be money prizes ;

(*c*) tickets or chances in the lottery shall not be sold or issued, nor shall the result of the lottery be declared, except on the premises on which the entertainment takes place and during the progress of the entertainment ; and

(*d*) the facilities afforded for participating in lotteries shall not be the only, or the only substantial

inducement to persons to attend the entertainment.

(3) If any of the conditions specified in sub-section (2) is contravened, every person concerned in the promotion or conduct of the lottery shall, on conviction, be punishable—

(*a*) for the first offence with fine which may extend to one thousand rupees ; and

(*b*) for the second offence with fine which may extend to two thousand rupees ; and

(*c*) for any subsequent offence with imprisonment for a term which may extend to three months or with fine which may extend to five thousand rupees or with both :

Provided that in any proceeding under this section, it shall be a defence for a person charged to prove that the offence was committed without his knowledge.

Explanation.—The entertainments to which this section applies are, bazaars, shandies, exhibitions, sales of work, exhibition of feats and other entertainments of a similar character, whether limited to one day or extending over two or more days.

Licensed private lotteries not unlawful.

6. (1) A private lottery shall not be deemed to be an unlawful lottery, if the promoter thereof has obtained licence in respect of such lottery.

(2) The following conditions shall be observed by the promoter in connection with the promotion and conduct of such lottery, namely :—

(*a*) the whole proceeds, after deducting only expenses incurred for printing and stationery, shall be devoted to the provision of prizes for purchasers of winning tickets or chances, or, in the case of a lottery promoted for the members of a society, shall be devoted either to the provision of prizes as aforesaid or to purposes which are purposes of the society or, as to a part of the proceeds, to the provision of prizes as aforesaid and, as to the remainder, to such purposes as aforesaid ;

(*b*) there shall not be exhibited, published or distributed any written notice or advertisement of the lottery other than—

(i) a notice thereof exhibited on the premises of the society for whose members it is promoted or, as the case may be, on the premises on which the persons for whom it is promoted work or reside ; and

(ii) such announcement or advertisement thereof as is contained in the tickets, if any ;

(*c*) the price of every ticket or chance shall be the same and shall be stated on the ticket ;

(*d*) every ticket shall bear upon the face of it the name and address of the promoters and a statement of the persons to whom the sale of tickets or chances by the promoters is restricted, and a statement that no prize won in the lottery shall be paid or delivered by the promoters to any person other than the person to whom the winning ticket or chance was sold by them, and no prize shall be paid or delivered except in accordance with that statement ;

(*e*) no ticket or chance shall be issued or allotted by the promoters except by way of sale and upon receipt of the full price thereof, and no money or valuable thing so received by a promoter shall in any circumstance be returned ; and

(*f*) no tickets in the lottery shall be sent through the post.

(3) If any of the conditions specified in sub-section (2) is contravened, each of the promoters of the lottery, and where the person by whom the condition is contravened is not one of the promoters, that person also, shall, on conviction, be punishable—

(*a*) for the first offence with fine which may extend to one thousand rupees ;

(*b*) for the second offence with fine which may extend to two thousand rupees ; and

(*c*) for any subsequent offence with imprisonment for a term which may extend to three months or with fine which may extend to five thousand rupees or with both :

Provided that in any proceeding under this section, it shall be a defence for a person charged only by reason of his being a promoter of the lottery to prove that the offence was committed without his knowledge.

Explanation.—For the purpose of this section—

(*a*) the expression "private lottery" means a lottery in the State which is promoted for, and in which the sale of tickets or chances by the promoters is confined to, either—

(i) members of one society established and conducted for purposes not connected with gaming, wagering or lotteries ; or

(ii) persons all of whom work on the same premises ; or

(iii) persons all of whom reside on the same premises, and which is promoted by persons each of whom is a person to whom under the foregoing provisions tickets or chances may be sold by the promoters and, in the case of a lottery promoted for the members of a society, is a person authorised in writing by the governing body of the society to promote the lottery ; and

(*b*) the expression "society" includes a club, institution, organisation or other association of persons by whatever name called, and each local or affiliated branch or section of a society shall be regarded as a separate and distinct society.

Licensed charitable lotteries not unlawful.

7. (1) Notwithstanding anything to the contrary contained in this Act, the State Government may, in respect of a lottery promoted for the benefit of a charitable, religious or educational institution or organisation, grant a licence, subject to such conditions and on the payment of such fees or taxes as may be specified in the said licence, and such lottery shall not be deemed to be an unlawful lottery :

Provided that the rate of tax shall not be, in any case, higher than the rates set out in clause (*a*) of sub-section (1) and sub-section (2) of section 12.

(2) If any of the conditions specified in any licence granted under sub-section (1) is contravened, each of the promoters of the lottery, and where the person by whom

the condition is contravened, is not one of the promoters, that person also, shall, on conviction, be punishable—

(*a*) for the first offence with fine which may extend to one thousand rupees ;

(*b*) for the second offence with fine which may extend to two thousand rupees ; and

(*c*) for any subsequent offence with imprisonment for a term which may extend to three months or with fine which may extend to five thousand rupees or with both :

Provided that in any proceeding under this section, it shall be a defence for a person charged only by reason of his being a promoter of the lottery to prove that the offence was committed without his knowledge.

Licensed prize competitions not unlawful.

8. A prize competition shall not be deemed to be an unlawful prize competition, if a licence in respect of such competition has been obtained by the promoter thereof.

Penalty for contravention of section 8.

9. Without prejudice to his liability, if any, to be proceeded against under the preceding provisions of this Act relating to lotteries, whoever contravenes the provisions of section 8 shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both.

Licences.

10. Every licence granted under this Act shall be granted by the State Government on payment of such fees and subject to such conditions and shall be in such form as may be prescribed.

Suspension or cancellation of licence.

11. The State Government may suspend or cancel a licence granted under this Act—

(1) if there is any breach of any of the conditions subject to which the licence is granted ; or

(2) if the holder of such licence contravenes any of the conditions specified in section 5 or section 6 or in a licence referred to in section 7 ; or

(3) if any tax payable under section 12 is not duly paid by the promoter ; or

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(4) if the holder of such licence contravenes any of the provisions of section 15 ; or

(5) for any other reason for which the suspension or cancellation of the licence is, in the opinion of the State Government, necessary in the public interest.

Levy of tax on lotteries and prize competitions.

12. (1) There shall be levied—

(*a*) in respect of every lottery for which a licence has been obtained under section 5, section 6 or section 7, a tax at such rate not exceeding twelve and a half per cent of the total sum received or due in respect of such lottery as may be specified by the State Government, by notification in the *Mysore Gazette* ; and

(*b*) in respect of every prize competition for which a licence has been obtained under section 8, a tax at such rate not exceeding twenty-five per cent of the total sum received in respect of such competition, as may be specified by the State Government, by notification in the *Mysóre Gazette*.

The tax shall be collected from the promoter of such lottery or prize competition, as the case may be.

(2) Notwithstanding anything contained in sub-section (1), the State Government may, by notification in the *Mysore Gazette*, direct that the tax to be levied in respect of a lottery or prize competition shall be at such rate not exceeding fifty per cent of the total sum received or due in respect of such lottery or prize competition as may be specified in the notification.

(3) The Deputy Commissioner may, after making such inquiry as he deems fit, determine the person who shall be deemed to be the promoter for the purposes of this section.

Calculation and recovery of tax levied under section 12.

13. (1) The amount of tax to be levied in respect of a lottery or prize competition under section 12, shall be calculated by the Deputy Commissioner on the total sum received or due in respect of the lottery or prize competition as disclosed in the accounts maintained and statements submitted to him under section 15.

(2) In cases where no such accounts are maintained or where no such statements are submitted or where such accounts or statements are in the opinion of the Deputy Commissioner, false or incorrect, the Deputy Commissioner shall make the calculation to the best of his judgment.

(3) The tax leviable under section 12 shall, in the case of a prize competition, be paid within thirty days of the end of each quarter and in the case of a lottery be paid within thirty days of the date on which such lottery is drawn.

(4) If any tax payable under section 12 is in arrear, the Deputy Commissioner may, in lieu thereof, recover any sum not exceeding double the amount of the tax so unpaid or any smaller sum above the amount of the tax which the Deputy Commissioner may think it reasonable to recover.

Licence fee and other dues to be recoverable as arrears of land revenue.

14. All sums payable as fees or taxes under this Act shall be recoverable as arrears of land revenue.

Promoters of lotteries or prize competitions to keep and maintain accounts.

15. Every person promoting a lottery or prize competition of any kind shall keep and maintain proper and correct accounts relating to such lottery or competition and shall submit to the Deputy Commissioner statements in such form and at such period as may be prescribed.

Penalty for failure to keep accounts.

16. If any promoter of a lottery or prize competition liable under section 15, to keep accounts or to submit statements, fails to keep the accounts or to submit the statements in the manner and at the period prescribed, he shall, on conviction, be punishable with fine which may extend to five hundred rupees.

Power of Deputy Commissioner to require production of accounts or to inspect accounts.

17. The Deputy Commissioner may, for the purposes of this Act, at all reasonable times—

(i) require any promoter of a lottery or prize competition to produce before him accounts or other documents or to furnish any other information; or

(ii) inspect the accounts of any such promoter.

18. It shall be lawful for a police officer— Power of entry and search.

(i) in the City of Bangalore not below the rank of a Sergeant or Sub-Inspector and either empowered by general order in writing or authorised in each case by special warrant issued by the District Magistrate, and

(ii) elsewhere not below the rank of a Sub-Inspector of Police, authorised by a special warrant issued in each case by a Magistrate of the First Class or a District Superintendent of Police or by an Assistant Superintendent of Police specially empowered by the State Government in this behalf;

(*a*) to enter, with the assistance of such persons as may be found necessary, by night or by day, and by force, if necessary, any house, room, or place which he has reason to suspect is used for purposes connected with the promotion or conduct of any lottery or prize competition;

(*b*) to search all parts of the house, room or place which he shall have so entered, the persons whom he shall find therein and also such persons as may be specified by name in the warrant;

(*c*) to take into custody and bring before a Magistrate all such persons;

(*d*) to seize all things which are reasonably suspected to have been used or intended to be used in connection with a lottery or prize competition and which are found therein:

Provided that no officer shall be authorised by special warrant unless the District Magistrate, the District or Assistant Superintendent of Police concerned is satisfied, upon any complaint made before him on oath and upon making such inquiry as he thinks necessary, that there are reasonable grounds to suspect that the said housre, room or place is used or is intended to be used for purposes connected with the promotion or conduct of an unlawful lottery or prize competition.

Searches how made.

19. All searches made under section 18, shall be made in accordance with the provisions of the Code of Criminal Procedure, 1904.

Power to arrest without warrant in certain cases.

20. A Police Officer may apprehend without warrant any person found or reasonably suspected of, committing an offence under clause (*a*), (*c*) or (*d*) of sub-section (1) of section 4, in any public street, or thoroughfare or in any place to which the public have or are permitted to have access.

Power of investigation.

21. (1) Every Officer not below the rank of Sub-Inspector of Police shall have power to investigate all offences punishable under this Act.

(2) Every such officer shall, in the conduct of such investigation, exercise the powers (except the power to arrest without warrant otherwise than under section 20) conferred by the Code of Criminal Procedure, 1904, upon an officer in charge of a police station for the investigation of a cognizable offence.

Offences to be bailable.

22. All offences punishable under this Act shall be bailable.

Jurisdiction to try offences.

23. No Magistrate, below the rank of a Magistrate of the First Class, shall try an offence under this Act.

Authorisation of certain officers to perform the functions of Deputy Commissioner.

24. The State Government may, by general or special order, authorise any officer to perform the functions of the Deputy Commissioner under any of the provisions of this Act.

Offences by corporation, etc.

25. Where a person committing an offence under this Act is a company or other body corporate or an association of persons, (whether incorporated or not) every person who at the time of the commission of the offence was a director, manager, secretary, agent or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge, be deemed to be guilty of such offence.

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26. The Deputy Commissioners and all officers duly authorised under section 24 shall exercise the powers and perform the duties conferred and imposed on them by or under this Act, in accordance with such orders as the State Government may, from time to time, make. Deputy Commissioners and all officers to act subject to orders of State Government.

27. All officers acting under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860. Officers to be deemed public servants.

28. (1) No suit, prosecution or other legal proceeding shall be instituted against any officer of the State Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder. Protection of persons acting in good faith and limitation of suits and prosecutions.

(2) No suit shall be instituted against the State Government and no prosecution or suit shall be instituted against any officer of the State Government in respect of anything done or intended to be done, under this Act, unless the suit or prosecution has been instituted within six months from the date of the act complained of.

29. (1) Any person aggrieved by any order passed under this Act by the Deputy Commissioner or any officer authorised under section 24, may appeal against such order to the Excise Commissioner in Mysore or to such other officer as the State Government may appoint in this behalf. Appeal and revision.

(2) Every order passed in appeal under this section shall, subject to the powers of revision conferred by sub-section (3), be final and shall not be liable to be called in question in any court of law whether in a suit or other proceeding or by way of appeal or revision.

(3) The State Government, may, at any time, call for and examine the record of any order or the proceedings of, any officer or person for the purpose of satisfying itself as to the legality or propriety of such order passed by, or as to the regularity of such proceedings of, such officer or person and may pass such order in reference thereto as it thinks fit.

30. The State Government may exempt from all or any of the provisions of this Act any lottery or any prize competition the net proceeds of which are to be devoted to a charitable purpose. Exemption.

Rules.

31. (1) The State Government may, by notification in the *Mysore Gazette*, make rules for the purposes of carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing provision, such rules may provide for the following matters :—

(i) the procedure for the grant of licences, the form of licence and the fees on payment of which and the conditions subject to which a licence shall be granted under section 10 ;

(ii) the manner in which the accounts shall be kept and maintained and the form in which and the period at which, the statements of accounts are to be submitted under section 15.

(3) Any rule made under this section may provide that any person contravening any such rule shall, on conviction, be liable to fine which may extend to one hundred rupees.

(4) Rules made under this section shall be subject to the condition of previous publication.

Saving.

32. Nothing in this Act shall apply to—

(*a*) any person who carries on the business or vocation of or acts as a book-maker or turf commission agent under a licence or permit issued by any Racing Club or by the Stewards thereof to enable him to carry on his business or vocation under the conditions mentioned under the exception to section 4 (i) (1) of the Mysore Police Act, 1908, as specified in the licence or permit or to any entries in respect of any stake or bet received by such person ;

(*b*) lotteries organised by the Government of India or the Government of a State within the meaning of entry 40 of List I in the Seventh Schedule to the Constitution of India.

Repeal of section 294-A of Act XLV of 1860.

33. The provisions of section 294-A of the Indian Penal Code, (XLV of 1860), are hereby repealed.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,
Legal Remembrancer and
Secretary to Government,
Law Department.

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.